IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

**CHAMBER SUMMONS NO.1417 OF 2007**
**IN**
**SUIT NO.4005 OF 1996**

Abbas H. Shahpurwala ... Plaintiff

Vs.

Mohatta Builders & Associates & Ors. ... Defendants

Ms. Ambareen Saheed i/b M/s. Vivek Kantawala & Co. for the plaintiffs.

Ms. Neeta Solanki i/b Mr. K.P. Jain for defendants 3 and 5.

Mr. J.B. Mitra i/b Mr. A.S. Khatib for defendant 6.

**CORAM : SMT. RANJANA DESAI, J.**

**DATED : SEPTEMBER 6, 2007.**

**P.C.:-**

1. This chamber summons is not on board. It is taken on board by consent of the parties.

2. This chamber summons is filed by the plaintiff praying that

the plaintiff be allowed to amend the plaint by deleting the name of defendant 4 and adding the name of the heirs of defendant 4 in place and stead of defendant 4 as set out in Schedule “A” to the chamber summons. Affidavit in support of the chamber summons is filed by Mr. Tayeb Sohagpurwala, the constituted attorney of the plaintiff.

3. It appears that there is about four years' delay in filing this chamber summons. In the affidavit in reply, it is stated that the plaintiff has got transferred the instant suit to the present advocates M/s. Vivek Kantawala & Co. in or about August, 2005. It is further stated that the plaintiff was, at no point of time, aware of defendant 4 having expired till filing of the written statement of defendants 3 and 5. It is further stated that the plaintiff was not informed in respect of the heirs of defendant 4. According to the plaintiff, no information in respect thereof was also made available to the present advocates from the papers and proceedings handed over to the advocates for the plaintiff from the erstwhile advocates of the plaintiff. It is further stated that on 17/8/2007, the plaintiff's

advocates were informed that defendant 4 had expired on 9/12/2003. The plaintiff has thereafter filed this chamber summons. In the circumstances of the case, in my opinion, delay deserves to be condoned and the chamber summons needs to be granted. Hence, the following order.

4. Chamber summons is made absolute in terms of prayer clause (a). Amendments to be carried out within a period of two weeks from today. Chamber summons is disposed of.

**[SMT. RANJANA DESAI, J.]**